

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
LUBBOCK DIVISION

NADINE BENAVIDEZ,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACTION NO.
	)	5:06-CV-156-BG
	)	ECF
MICHAEL J. ASTRUE,	)	
Commissioner of Social Security,	)	
	)	
Defendant.	)	

**REPORT AND RECOMMENDATION**

**I. Background**

The United States District Judge reassigned this case to the docket of the United States Magistrate Judge for further proceedings on February 19, 2008. Now before the court is an “Agreed Motion to Remand” filed July 21, 2008. The motion is filed pursuant to sentence four of 42 U.S.C. § 405(g), and the Commissioner submits that entry of final judgment should issue if the motion is granted.

Plaintiff did not consent to the jurisdiction of the United States Magistrate Judge. Therefore, pursuant to the order transferring this case, the undersigned now files this Report and Recommendation.

**II. Recommendation**

It is recommended that the United States District Court grant the motion to remand and enter a final judgment reversing the Commissioner’s decision. *See Shalala v. Schaefer*,

509 U.S. 292, 296-98 (1993) (acknowledging that sentence four of 42 U.S.C. § 405(g) authorizes the entry of final judgment).

### **III. Right to Object**

Pursuant to 28 U.S.C. § 636(b)(1), any party has the right to serve and file written objections to the Report and Recommendation within ten days after being served with a copy of this document. The filing of objections is necessary to obtain de novo review by the United States District Court. A party's failure to file written objections within ten days shall bar such a party, except upon grounds of plain error, from attacking on appeal the factual findings and legal conclusions accepted by the district court. *Douglass v. United Servs. Auto Ass'n*, 79 F.3d 1415, 1429 (5th Cir. 1996) (en banc).

Dated: July 30, 2008.

  
NANCY M. KOENIG  
United States Magistrate Judge